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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,237	09/10/2003	Yasuhiro Mori	MTS-3302US1	3510
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RATNERPRESTIA			NAQI, SHARICK	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/659,237	<b>Applicant(s)</b> MORI, YASUHIRO	
	<b>Examiner</b> Sharick Naqi	<b>Art Unit</b> 3736	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 16 October 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 6-14, 28, 52 and 54-71 is/are pending in the application.
- 4a) Of the above claim(s) 6-14, 28, 52 and 52-59 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 60-71 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>May 07, 2007</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 60 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear to the Examiner what exactly is meant by ". . . the health control program including all or part of exercise indices, an exercise menu, and health control indices of the user . . ." in lines 7-8 of claim 60. It is unclear whether including all means just all exercise indices or exercise indices, an exercise menu, and health control indices.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 60-71 are rejected under 35 U.S.C. 102(b) as being anticipated by Mault USPN 6,478,736.**

60. A method of controlling a health of a user of a vital signs processing apparatus comprising a vital signs detecting means configured to detect vital signs of the user and

a vital sign processing means configured to process, store, and display the vital signs detected by the vital signs detecting means (Figs 7A-12C, Fig 15, column 8, lines 32-67, column 9, lines 1-67, column 10, lines 1-67, column 11, lines 1-67, column 12, lines 1-40), the method comprising:

generating a health control program in a server according to a user chart containing vital signs including height, weight, body fat percentage, and temperature of said user, the health control program including all or part of exercise indices, an exercise menu, and health control indices of the user of the vital signs processing apparatus, the server being external to the vital signs processing apparatus (Figs 7A-12C, Fig 15, column 8, lines 32-67, column 9, lines 1-67, column 10, lines 1-67, column 11, lines 1-67, column 12, lines 1-40);

transmitting the health control program to the vital signs processing apparatus; receiving the health control program in the vital signs processing apparatus (Figs 7A-12C, Fig 15, column 8, lines 32-67, column 9, lines 1-67, column 10, lines 1-67, column 11, lines 1-67, column 12, lines 1-40);

measuring vital signs of the user exercising according to instructions in the health control program, wherein the health control program directs an exercise routine of the user. (Figs 7A-12C, Fig 15, column 8, lines 32-67, column 9, lines 1-67, column 10, lines 1-67, column 11, lines 1-67, column 12, lines 1-40)

61. The method according to claim 60 further comprising:

transmitting the measured vital signs to the server; (Figs 7A-12C, Fig 15, column 8, lines 32-67, column 9, lines 1-67, column 10, lines 1-67, column 11, lines 1-67, column 12, lines 1-40)

modifying the health control program depending on the transmitted vital signs; (Figs 7A-12C, Fig 15, column 8, lines 32-67, column 9, lines 1-67, column 10, lines 1-67, column 11, lines 1-67, column 12, lines 1-40) and

transmitting the modified health control program to the vital signs processing apparatus. (Figs 7A-12C, Fig 15, column 8, lines 32-67, column 9, lines 1-67, column 10, lines 1-67, column 11, lines 1-67, column 12, lines 1-40)

62. The method according to claim 60 further comprising:

determining, in the vital signs processing apparatus, whether the measured vital signs fall outside a range of values set in the health control program; (Figs 7A-12C, Fig 15, column 8, lines 32-67, column 9, lines 1-67, column 10, lines 1-67, column 11, lines 1-67, column 12, lines 1-40) and

transmitting warning information from the vital signs processing apparatus to the server requesting attention from the server. (Figs 7A-12C, Fig 15, column 8, lines 32-67, column 9, lines 1-67, column 10, lines 1-67, column 11, lines 1-67, column 12, lines 1-40)

63. The method according to claim 62 further comprising:

altering the exercise indices and/or the exercise menu in the health control program according to the warning information to provide a modified health control

program; (Figs 7A-12C, Fig 15, column 8, lines 32-67, column 9, lines 1-67, column 10, lines 1-67, column 11, lines 1-67, column 12, lines 1-40) and

transmitting the altered exercise indices and/or exercise menu to the vital signs processing apparatus to provide the vital signs processing apparatus with the modified health control program. (Figs 7A-12C, Fig 15, column 8, lines 32-67, column 9, lines 1-67, column 10, lines 1-67, column 11, lines 1-67, column 12, lines 1-40)

64. The method according to claim 61 further comprising: measuring further vital signs of the user exercising according to instructions in the modified health control program. (Figs 7A-12C, Fig 15, column 8, lines 32-67, column 9, lines 1-67, column 10, lines 1-67, column 11, lines 1-67, column 12, lines 1-40)

65. The method according to claim 60 further comprising:

providing prompt information for requesting renewal of measured vital signs to the user; (Figs 7A-12C, Fig 15, column 8, lines 32-67, column 9, lines 1-67, column 10, lines 1-67, column 11, lines 1-67, column 12, lines 1-40)

measuring new vital signs of the user; (Figs 7A-12C, Fig 15, column 8, lines 32-67, column 9, lines 1-67, column 10, lines 1-67, column 11, lines 1-67, column 12, lines 1-40) and

transmitting the new measured vital signs to the server. (Figs 7A-12C, Fig 15, column 8, lines 32-67, column 9, lines 1-67, column 10, lines 1-67, column 11, lines 1-67, column 12, lines 1-40)

66. The method according to claim 65, wherein said prompt information is output when the measured vital signs are not renewed for a predetermined time or longer. (Figs 7A-12C, Fig 15, column 8, lines 32-67, column 9, lines 1-67, column 10, lines 1-67, column 11, lines 1-67, column 12, lines 1-40)

67. The method according to claim 65, wherein the prompt information includes a method of operation of the vital signs processing apparatus for the user to renew the measured vital signs. (Figs 7A-12C, Fig 15, column 8, lines 32-67, column 9, lines 1-67, column 10, lines 1-67, column 11, lines 1-67, column 12, lines 1-40)

68. The health control method according to claim 65, wherein the prompt information includes a method of operation of the server for the user of the vital sign processing apparatus. (Figs 7A-12C, Fig 15, column 8, lines 32-67, column 9, lines 1-67, column 10, lines 1-67, column 11, lines 1-67, column 12, lines 1-40)

69. The health control method according to claim 60 wherein:  
the server further comprises a user ID (identifier) table for storing user identifications for corresponding a user chart of each user to that user uniquely; and each user identification is transmitted together with the health control program to the vital signs processing apparatus. (Figs 7A-12C, Fig 15, column 8, lines 32-67,

column 9, lines 1-67, column 10, lines 1-67, column 11, lines 1-67, column 12, lines 1-40)

70. A computer readable tangible medium including a program for operating a central processing unit of a computer to perform all of the steps of generating and transmitting in the method of claim 60. (Figs 7A-12C, Fig 15, column 8, lines 32-67, column 9, lines 1-67, column 10, lines 1-67, column 11, lines 1-67, column 12, lines 1-40)

71. A data structure on a computer readable tangible medium including instructions for operating a central processing unit of a computer to perform all of the second steps of generating and transmitting in the method of claim 60. (Figs 7A-12C, Fig 15, column 8, lines 32-67, column 9, lines 1-67, column 10, lines 1-67, column 11, lines 1-67, column 12, lines 1-40)

### ***Response to Arguments***

Applicant's arguments with respect to claims 60-71 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP



§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharick Naqi whose telephone number is 571-272-3041. The examiner can normally be reached on 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on 571-272-4726. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Application/Control Number:  
10/659,237  
Art Unit: 3736

Page 9

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SN  
December 20, 2007

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